

OPEN MEETING ITEM



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BEFORE THE ARIZONA CORPORATION COMMISSION

MARC SPITZER
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER
MIKE GLEASON
COMMISSIONER
JEFF HATCH-MILLER
COMMISSIONER

Arizona Corporation Commission

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MAR 31 2003

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ARIZONA CORPORATION COMMISSION
DOCKETED 3/31/03

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RECEIVED

IN THE MATTER OF THE)
APPLICATIONS OF H2O, INC. AND)
JOHNSON UTILITIES COMPANY FOR)
AN EXTENSION OF THEIR)
CERTIFICATES OF CONVENIENCE AND)
NECESSITY.)

DOCKET NOS. W-02234A-00-0371
WS-02987A-99-0583

IN THE MATTER OF THE APPLICATION)
OF JOHNSON UTILITIES, L.L.C., DBA)
JOHNSON UTILITIES COMPANY, FOR)
AN EXTENSION OF ITS CERTIFICATE)
OF CONVENIENCE AND NECESSITY TO)
PROVIDE WATER AND WASTEWATER)
SERVICE TO THE PUBLIC IN THE)
DESCRIBED AREA IN PINAL COUNTY,)
ARIZONA.)

DOCKET NO. WS-02987A-00-0618

IN THE MATTER OF THE APPLICATION)
OF DIVERSIFIED WATER UTILITIES,)
INC. TO EXTEND ITS CERTIFICATE OF)
CONVENIENCE AND NECESSITY.)

DOCKET NO. W-02859A-00-0774

IN THE MATTER OF THE APPLICATION)
OF QUEEN CREEK WATER COMPANY)
TO EXTEND ITS CERTIFICATE OF)
CONVENIENCE AND NECESSITY.)

DOCKET NO. W-01395A-00-0784

**DIVERSIFIED WATER UTILITIES, INC.'S
OPPOSITION TO JOHNSON UTILITIES COMPANY'S APPLICATION FOR
RETROACTIVE EXTENSION OF TIME TO COMPLY**

Diversified Water Utilities, Inc. ("Diversified"), through its attorneys,
hereby files its Opposition to Johnson Utilities Company's ("JUL") Application for

LAW OFFICES

MARTINEZ & CURTIS, P.C.
2712 NORTH 7TH STREET
PHOENIX, AZ 85006-1090
(602) 248-0372

1 Retroactive Extension of Time to Comply with Decision NO. 64062 ("Application") and
2 requests that JUL's Application be denied. By this reference, Diversified also
3 incorporates the Oppositions filed to the two previous requests made by JUL. See,
4 Opposition to Johnson Utilities Company's Motion to Amend Recommended Order, filed
5 March 1, 2003, and Diversified's Exceptions to Staff's Recommended Order Regarding
6 Johnson Utilities Company's Request for Extension to Time to Comply, filed December
7 13, 2002.
8

9 JUL is requesting a retroactive extension of time in order to comply with
10 Decision No. 64062 because it contends that the entry of a Consent Judgment between JUL
11 and ADEQ is imminent. This fact only serves to highlight JUL's failure to comply with
12 Decision and Order No. 63960, as amended by Decision No. 64062 (the "Decision"). The
13 Decision required JUL to file, with the Commission, documentation from ADEQ indicating
14 that JUL has been in compliance with ADEQ, within 30 days of the first two anniversary
15 dates of the Decision. It further provides that failure to submit this documentation in the
16 Docket or failure to correct any major or minor violation within 90 days from the date of
17 notice of violation should result in the Certificate authorized becoming null and void
18 "without further order of the Commission." See Decision No. 64092, p. 35, Order ¶ 2. The
19 issue relevant to the Commission is whether JUL complied with the Decision and is entitled
20 to yet another chance to comply with the Decision.
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24 JUL contends that finally, more than a year after a Notice of Violation was
25 entered on October 16, 2001, JUL and ADEQ "are prepared to sign" a Consent Order
26


1 involving the alleged violations of A.A.C. R18-4-507 (involving ADEQ approvals of
2 construction). See Application, ¶ 6.

3
4 The fact that JUL took more than a year to get to the point that it is
5 "prepared to sign" a Consent Judgment with ADEQ is a significant and undisputable
6 indication of JUL's unwillingness to voluntarily comply with the rules and regulations
7 governing its utility activities. In addition, as indicated in JUL's Application, it was only
8 after being questioned extensively by the Commission at the open meeting of December
9 17, 2002, that "JUC [JUL] and ADEQ have undertaken additional efforts to address
10 ADEQ's allegation. . ." See Application, ¶ 6. Needless to say, JUL's cooperation was
11 also elicited through ADEQ's filing, or threat to file, a complaint (Consent Judgment,
12 Recital D) and this Commission's refusal to resurrect JUL's null and void CC&N.
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14

15 The entry of the Consent Order by JUL and ADEQ does not effect or cure
16 JUL's significant history of ignoring the Decision. Therefore, it is requested that JUL's
17 Application be denied.
18

19
20 Respectfully submitted this 31st day of March, 2003.

21 MARTINEZ & CURTIS, P.C.

22 
23

24 William P. Sullivan
25 Paula A. Williams
26 2712 North Seventh Street
Phoenix, Arizona 85006-1090

1 PROOF OF SERVICE AND
2 CERTIFICATE OF MAILING

3 I hereby certify that on this 31st day of March, 2003, I caused the foregoing
4 document to be served on the Arizona Corporation Commission by hand-delivering the original
5 and twenty (21) copies of said document to:

6 Docket Control
7 Arizona Corporation Commission
8 1200 West Washington Street
9 Phoenix, Arizona 85007

10 With copies of the foregoing mailed and/or hand-delivered this 31st day of March, 2003 to:

11 Marc Stern, Administrative Law Judge
12 Arizona Corporation Commission
13 1200 West Washington Street
14 Phoenix, Arizona 85007

15 Christopher Kempley, Chief Counsel
16 Legal Division
17 Arizona Corporation Commission
18 1200 West Washington Street
19 Phoenix, Arizona 85007

20 Ernest Johnson, Director
21 Utilities Division
22 Arizona Corporation Commission
23 1200 West Washington Street
24 Phoenix, Arizona 85007

25 Richard L. Sallquist
26 Sallquist & Drummond
27 2525 East Arizona Biltmore Circle, Suite A-117
28 Phoenix, Arizona 85016
29 Attorneys for Johnson Utilities, L.L.C.

30 Petra Schadeberg
31 Pantano Development Limited Partnership
32 3408 North 60th Street
33 Phoenix, Arizona 85018-6702
34 Intervenor

Jay Shapiro
Karen E. Errant
Fennemore Craig
3003 N. Central Ave., Suite 2600
Phoenix, Arizona 85012-2913
Attorneys for H2O, Inc.

Charles A. Bischoff
Jorden & Bischoff
7272 East Indian School Road, Suite 205
Scottsdale, Arizona 85251
Attorneys for Queen Creek Water

Richard N. Morrison
Salmon, Lewis & Weldon, P.L.C.
2850 East Camelback Road, Suite 200
Phoenix, Arizona 85016
Attorneys for LeSuer Investments, et al.

Kathy Aleman, Manager
Wolfcor, LLC & Wolfkin Farms
Southwest Properties, Inc.
3850 East Baseline Road, Suite 123
Mesa, Arizona 85206
Intervenor

Dick Maes, Project Manager
Vistoso Partners, LLC
1121 West Warner Road Suite 109
Tempe, Arizona 85284
Intervenor

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